

ESTTA Tracking number: **ESTTA552231**

Filing date: **08/05/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Tarisio Auctions LLC
Granted to Date of previous extension	08/14/2013
Address	244 West 54th Street New York, NY 10019 UNITED STATES

Attorney information	William H. Cox Gordon, Herlands, Randolph & Cox LLP 355 Lexington Avenue New York, NY 10017 UNITED STATES wcox@gordonherlands.com Phone:212-986-1200
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### Applicant Information

Application No	85756067	Publication date	04/16/2013
Opposition Filing Date	08/05/2013	Opposition Period Ends	08/14/2013
Applicant	Conte Cozio Auctions LLC 2016 Wallace Street Suite 1R Philadelphia, PA 19130 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2012/08/25 First Use In Commerce: 2012/09/13 All goods and services in the class are opposed, namely: Arranging and conducting auctions; On-line trading services in which seller posts products to be auctioned and bidding is done via the Internet
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### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85790001	Application Date	11/28/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COZIO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2003/04/30 First Use In Commerce: 2003/04/30 Operating on-line marketplaces featuring musical instruments and bows; Providing a website featuring a registry of musical instrument information; Providing an on-line directory information service featuring information regarding musical instruments and bows; Providing on-line registration services for musical instruments and bows

Attachments	cozio.opposition.notice.pdf(920683 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/peter j. vranum/
Name	Peter J. Vranum
Date	08/05/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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TARISIO AUCTIONS LLC,	)	
	)	Opposition No.
Opposer,	)	
	)	Appl. Serial No. 85756067
v.	)	
	)	
CONTE COZIO AUCTIONS,	)	
LLC DBA CONTE COZIO,	)	
	)	
Applicant.	)	
-----X		

**NOTICE OF OPPOSITION**

In the matter of an application for registration of the mark "CONTE COZIO FINE INSTRUMENTS AND BOWS AND DESIGN", Serial No. 85/756067 for arranging and conducting auctions; on-line trading services in which seller posts products to be auctioned and bidding is done via the Internet (International Class 35), filed under Section 1(a) of the Trademark Act on October 17, 2012 by Conte Cozio Auctions LLC DBA Conte Cozio of 2016 Wallace Street, Suite 1R, Philadelphia, Pennsylvania 19130 (hereinafter called "Applicant"), published on April 16, 2013. Tarisio Auctions LLC, a limited liability company organized under the laws of the Commonwealth of Massachusetts, domiciled and doing business at 244 West 54<sup>th</sup> Street, New York, New York 10019 (hereinafter called "Opposer"), believes that it would be damaged by such registration and hereby opposes the same.

The grounds for opposition, on information and belief, are as follows:

1. Opposer, Tarisio Auctions LLC, and/or its predecessor in interest, is now and has been engaged in providing on-line services including operating on-line marketplaces featuring musical instruments and bows; providing a website featuring a registry of musical instrument information; providing an on-line directory information service featuring information regarding musical instruments and bows; and providing on-line registration services for musical instruments and bows.

2. Opposer and/or its predecessor in interest has used and presently uses the mark "COZIO" in connection with the services identified in paragraph 1.

3. Petitioner is the owner of a trademark application for COZIO (Serial No. 85790001 dated November 28, 2012) covering the services identified in paragraph 1.

4. Since prior to the filing date of Application Serial No. 85/756067, and prior to the alleged date of first claimed under said application, Opposer and/or its predecessor in interest did use and have continuously used in interstate commerce the mark COZIO in connection with the various services described in paragraph 1 herein extensively throughout the United States. By reason of such extensive use and promotion, Opposer has attained an enviable reputation for high standards of quality, and the mark COZIO and variations thereof have become distinctive of and associated in the minds of the trade and purchasing public with the Opposer.

5. Applicant's mark CONTE COZIO FINE INSTRUMENTS AND BOWS AND DESIGN is, in its appearance, sound and overall commercial impression, confusingly similar to Opposer's mark. The services of the Applicant are related and/or identical to the various services of Opposer as described in paragraph 1 herein, and are likely to move within the same channels of trade and be purchased and/or used by the same



class of purchaser so that Applicant's mark is likely, when used in association with the services of Applicant, to cause confusion or to deceive purchasers in the mistaken belief that the services of Applicant emanate from, are offered for sale, or are provided and/or sold by Opposer or under Opposer's approval, sponsorship or control, all to the great damage of Opposer.

6. Opposer believes that Applicant's selection of the mark CONTE COZIO FINE INSTRUMENTS AND BOWS AND DESIGN may take advantage of the nationwide reputation of Opposer and its mark COZIO, and may take advantage of the goodwill of Opposer gained by extensive and persistent advertising and expenditures of large sums of money therefore, and if continued in commerce, will be likely to confuse, mislead or deceive the trade and members of the public in suggesting to them that Applicant's mark identifies services sold, sponsored or approved by Opposer or to suggest falsely a trade connection between Opposer and Applicant.

7. If the specified services of Applicant are inferior in quality, there will be irreparable injury to Opposer's valuable goodwill and its mark. Furthermore, the use and registration of the mark CONTE COZIO FINE INSTRUMENTS AND BOWS AND DESIGN will dilute the distinctive character of Opposer's valuable registered trademark, COZIO.

WHEREFORE, Opposer, by and through its counsel, respectfully requests that the mark sought to be registered by Applicant be refused and that a Notice of Opposition be sustained.

Please recognize William H. Cox, William B. Randolph and Peter J. Vranum of the firm of Gordon, Herlands, Randolph & Cox LLP, all members of the Bar of the State of New York, 355 Lexington Avenue, New York, New York 10017, as attorneys for Opposer.

Respectfully submitted,

GORDON, HERLANDS,  
RANDOLPH & COX LLP

A handwritten signature in blue ink, appearing to read "Peter J. Vranum", with a stylized flourish at the end.

Peter J. Vranum, Esq.  
Attorneys for Opposer  
355 Lexington Avenue  
New York, New York 10017  
(212) 986-1200

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing Opposer's Notice of Opposition to be served by First Class mail, postage prepaid, on August 5, 2013, on:

Conte Cozio Auctions, LLC  
2016 Wallace Street, Apt. 1R  
Philadelphia , PA 19130-3254



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Peter J. Vranum